

REMARKS

The Examiner's attention is directed to recall the telephone interview during which the filing of a terminal disclaimer was discussed. Applicant agreed to file a terminal disclaimer in due course considering the provisional nature of the rejections.

Claim Disposition

Claims 1 - 44 are pending in the application. Claims 1 - 44 have been rejected based on Obviousness type double patenting.

Obviousness Double Patenting

Claims 1-44 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-59 of U.S. Serial No. 10/033,333. The Examiner has stated:

"Although the conflicting claims are not identical, they are not patentably distinct from each other because the presently claimed limitations are encompassed by the limitations of Serial No. 10/033,333. Present Claim 1 differs from Claim 1 of 10/033,333 in that present Claim 1 also requires generating drawings and instructions, instead of just instructions as required by 10/033,333 in Claim 1. It would have been obvious for one of ordinary skill in the art using a CAD/CAM as disclosed in the present Claims and the Claims of 10/033,333, that a CAD/CAM system pertains to drawings and instructions. With respect to the claims pertaining to a storage medium, the present Claims further require creating extracts from a master process model, as opposed to the storage medium claims of 10/033,333. See present Claim 23 and Claim 40 of 10/033,333. It would have been obvious for one of ordinary skill in the art using a CAD/CAM as disclosed in the present Claims and the Claims of 10/033,333, that a CAD/CAM system would require creating extracts from a master process model. Therefore, a prima facie case of obviousness double patenting is established."

"This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented."

Applicants respectfully submit that the present application and application Serial No. 10/033,333 are commonly owned. A terminal disclaimer will be filed to overcome the obviousness type double patenting rejection in due course as suggested by the Examiner.

The claims have not been amended to overcome the prior art and therefore, no presumption should attach that either the claims have been narrowed over those earlier presented, or that subject matter or equivalents thereof to which the Applicants are entitled has been surrendered. It is believed that the foregoing remarks are fully responsive to the Office Action and that the claims herein should be allowable to the Applicants. Accordingly, reconsideration of the claims and withdrawal of the rejections are requested.


In the event the Examiner has any queries regarding the instantly submitted response, the undersigned respectfully requests the courtesy of a telephone conference to discuss any matters in need of attention.

If there are additional charges with respect to this matter or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully Submitted,

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